

Mark Feathers, in *pro per*
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FILED

SEP 18 2014

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DK

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

vs.

SMALL BUSINESS CAPITAL CORP., ET AL

Defendants.

Case No. CV12-03237-EJD

**REQUEST FOR A DETERMINATION
FROM THIS COURT IF THE RECEIVER
HAS COMMITTED AN ACT OF GROSS
NEGLIGENCE AND IF THE RECEIVER
HAS LOST PERSONAL LIABILITY
PROTECTION AFFORDED TO HIM
UNDER SECTION XIII OF THE ORDER
FOR HIS APPOINTMENT (COURT
DOCKET 34)**

AND

**A REQUEST TO END THE
PERMANENT INJUNCTION AGAINST
MARK FEATHERS**

**Date: Feb. 6th, 2015 at 9:00 a.m.
Hon. Judge Edward J. Davila
Courtroom 4, 5th Fl.**

TO ALL PARTIES AND THEIR COUNSEL OF RECORD

Please take note of a motion hearing to discuss an end to the permanent injunction against Mark Feathers, and for the Court to issue a legal opinion if the Receiver, Thomas A. Seaman, has acted in gross negligence, and lost his personal liability protection, therefore.

MARK FEATHERS REQUEST FOR CLARIFICATION


Case CV12-03237-EJD

1 **INCLUSIVE POINTS OF DISCUSSION (POINTS OF UNDERSTANDING)**

2 1. The Order appointing the receiver (Court Docket 34), Thomas A. Seaman ("Seaman"),
3 states that the receiver "Except for an act of gross negligence...shall not be liable for any loss or
4 damage incurred by an of the defendants..." This *pro se* defendant has researched numerous
5 definitions of "gross negligence". He has arrived at the conclusion that Seaman's act of failing to
6 inform (or of omitting from the Court) the material issue that he is not a "licensed CPA" (see Court
7 Dockets 275 & 297) as SEC described Seaman (see Court Docket 6) in requesting his appointment
8 appears to meet any, and all, legal definitions of Seaman to have acted with "gross negligence".
9 This party requests the Court's concurrence on this matter.

10 2. SEC has requested of this party that he commence making payments on penalties and
11 disgorgement ordered by this Court. The Court's order for summary judgment is on appeal.
12 However, notwithstanding that issue, common sense would seem to dictate that the Court must
13 release this defendant from an injunction on his assets for there to be any possibility of this party
14 making payments per the Court's order, and per SEC's request of this party.

15
16
17 Dated: 9-18-14


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